

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION

FRANK DEGRAW, TRUSTEE, and  
INDIANA LABORERS WELFARE,  
PENSION, AND TRAINING FUNDS,

Plaintiff,

VS.

APEX MASONRY, INC.,

Defendant.

1:13-cv-776-RLY-DKL

## ORDER GRANTING PLAINTIFFS' REQUEST FOR DEFAULT JUDGMENT AND PERMANENT INJUNCTION

The Indiana Laborers Welfare, Pension, and Training Funds are multi-employer benefit plans, maintained by the contributions of a large number of different employers. Apex Masonry, Inc. is an employer bound to make contributions to the Funds pursuant to the collective bargaining agreements between it and the Laborers' International Union of North America ("LIUNA"), Indiana State Council. The plaintiffs herein, Frank DeGraw, as Trustee of the Funds, and the Funds themselves, move for default judgment against the defendant, Apex, for, *inter alia*, unpaid contributions to the Funds. Plaintiffs also move to permanently enjoin Apex from failing and/or refusing to make timely payment of monies due the Funds on behalf of all of Apex's employees for whom contributions are required. Apex did not respond to the Clerk's Entry of Default, nor to the present motion.

The court, having read and reviewed the Plaintiffs' motion, their brief in support, and their proposed Findings of Fact and Conclusions of Law, now finds the Plaintiffs' motion for default judgment and for a permanent injunction (Docket # 9) should be **GRANTED**.

**IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED** that judgment of default is hereby entered against Apex in the amount of \$34,377.45,<sup>1</sup> plus attorney fees and costs in the sum of \$1,610.00, as authorized and mandated by Section 502(g)(2) of the Employee Retirement Income Security Act of 1974, as amended, 29 U.S.C. § 1132(g)(2). **IT IS FURTHER ORDERED** that Apex is hereby **PERMANENTLY ENJOINED** from failing and/or refusing to make timely payment of monies due the Funds on behalf of all of Apex's employees for whom contributions are required under the collective bargaining agreement noted above. All future contributions will be paid on or before their due date on the basis specified in any collective bargaining agreement between LIUNA, Indiana State Council, and Apex.

**SO ORDERED** this 12th day of December 2013.



RICHARD L. YOUNG, CHIEF JUDGE  
United States District Court  
Southern District of Indiana

---

<sup>1</sup> This amount is representative of unpaid contributions for the months of June through October 2013. (Affidavit of Timothy Patrick ¶ 3). To the extent Apex failed to make contributions for the months of November and December, it shall be liable to the Funds for those amounts as well.

Distributed Electronically to Registered Counsel of Record.

Distributed by first-class U.S. Mail to:

Apex Masonry, Inc.  
c/o Max Helton, Jr., Registered Agent  
5944 E. Harlan Dr.  
Terre Haute, IN 47802